

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of	)	
	)	CC Docket No. 92-77
Billed Party Preference	)	Further Notice of
for 0+ InterLATA Calls	)	Proposed Rulemaking

**COMMENTS OF WATERWAY COMMUNICATIONS SYSTEM, INC.**

Waterway Communications System, Inc. (WATERCOM)  
respectfully herewith submits its Comments in response to  
the Further Notice of Proposed Rulemaking concerning billed  
party preference for 0+ interLATA calls.<sup>1/</sup>

**I. Statement of Interest.**

WATERCOM is the operator of an Automated Maritime  
Telecommunications System ("AMTS"), licensed under Part 80  
of the Commission's rules and regulations. The WATERCOM  
system, located along the Mississippi, Illinois and Ohio  
rivers and the Gulf Intracoastal Waterway, provides  
telecommunication service to the maritime industry operating  
along the 4,000 mile inland waterway transportation network.  
WATERCOM renders interconnected telecommunications service  
to the user public, and its service has been classified as  
CMRS by the Commission in the Second Report and Order in GN  
Docket No. 93-252, Regulatory Treatment of Mobile Services,  
9 FCC Rcd 1411, 1448 (1994).

<sup>1/</sup> 59 Fed. Reg. 30754 (June 15, 1994); Comment due date  
extended, 59 Fed. Reg. 33947 (Jul. 1, 1994).

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WATERCOM's interest in this rulemaking arises by virtue that it serves public pay telephones installed on eight (8) vessels operating on the inland waterways. These vessels consist of river cruise boats (e.g., the Delta Queen) and dinner/harbor cruise vessels. WATERCOM telephones have been installed by the vessel operators as a convenience to their customers and passengers. This traffic consists of less than 1% of the total traffic served by WATERCOM. WATERCOM's principal customer base consists of commercial vessels operating along the inland waterways, including tow boats, dredges, and workboats.

## **II. Comments.**

The Commission proposes in this Further Notice to require routing of all 0+ interLATA pay phone traffic on the basis of "billed party preference" (BPP). WATERCOM respectfully urges the Commission to limit any BPP requirement which the Commission may adopt, either (i) to the landline telephone network, (ii) not to apply to commercial mobile radio service (CMRS) providers in general or to Automated Maritime Telecommunications System operators in particular, or (iii) to apply only to common carriers meeting a threshold size requirement, either in terms of number of lines served (e.g., 10,000 or more) or other suitable defining criteria.

The concept underlying BPP simply is inapplicable in an AMTS or CMRS environment. The Commission describes the BPP process as entailing LEC routing, employing an operator service switch querying to a LIDB via SS7, etc.<sup>2/</sup> The described hardware and software consist of LEC central office facilities; such hardware and software is not part and parcel of the AMTS network. Adoption of said facilities would constitute a vast waste of resources due to the excessive capacity of said equipment for the subscriber base served by the AMTS, and the cost of compliance would be prohibitive to a carrier such as WATERCOM.

As an AMTS operator, the critical service rendered by WATERCOM entails the network providing the intercommunication between vessel and land points. The radio circuit path may be a few miles in length, or it may be 30-40 miles. Moreover, the path may be intrastate in nature, depending upon the location of the vessel and the serving shore station; or it may be interstate, particularly considering that the Mississippi and Ohio rivers serve as state boundaries. Necessarily, users do not call from or to a WATERCOM shore station; rather, the shore stations provide the interface between the mobile environment and the public switched landline telephone network. Users of WATERCOM's

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<sup>2/</sup> See Further Notice at ¶¶ 5-7.

"pay phone" equipment enjoy the option, once the call reaches the shore point, of allowing WATERCOM to arrange for the landline network routing, or they may dial the "800" access number for a desired interexchange carrier and thereby select their own IXC routing.<sup>3/</sup> WATERCOM's rate structure differentiates between end-to-end service and termination to an 800 number which relieves WATERCOM of the cost of landline delivery.

The Commission describes three principal benefits of BPP.<sup>4/</sup> None of those apply in an AMTS (or more generally, a CMRS) environment. First, the Commission states that callers no longer would need to use access codes, no longer would find their OSP cards rejected at certain pay phones, and their calls automatically would be carried by the OSP preferred by the billed party. These considerations are irrelevant in a maritime user environment. The maritime user is concerned with communicating with shore points from his or her vessel location, which in the case of pay phone users consists of a river cruise boat (e.g., the Mississippi Queen or a local dinner boat). The user typically will have a single choice of mobile carrier and is charged on a per-

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<sup>3/</sup> Typically, the 800 numbers called by WATERCOM users are the subscribers' office numbers, not IXC access numbers.

<sup>4/</sup> Further Notice at ¶¶ 9, et seq.

minute basis by that mobile carrier. IXCs and OSPs engaged in landline telephone operation do not operate in a mobile environment; and users simply are not concerned with bifurcating their call handling and responsibility. Since WATERCOM must in any case bill for the ship-to-shore portion of the call, whether or not an OSP card is accepted or rejected for billing purposes will be determined by WATERCOM's billing and settlement arrangements regardless of the landline routing option.

The Commission cites as the second justification for BPP that OSPs would refocus their competitive energies on serving end users rather than paying commissions for 0+ traffic from public phones. This, too, is irrelevant in a maritime environment. WATERCOM's public phone service on cruise boats and other vessels open to the public on the inland waterways is sui generis. WATERCOM has made its ship-shore service available to public access vessels; and WATERCOM is not engaged in competition with other CMRS providers for pay phone locations on a commission basis. As noted above and as has been detailed to the Commission in the TOCSIA proceedings,<sup>5/</sup> WATERCOM's public access pay phone

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<sup>5/</sup> See WATERCOM's Comments in: GTE Service Corporation, Petition for Declaratory Ruling That Certain Mobile Services Are Not Subject to TOCSIA, File No. MDS 92-14; Implementation of Section 332 of the Communications Act, GN Docket No. 93-252, and Further Title II Forbearance, GN Docket No. 94-33.

use of its system accounts for less than 1% of its total system usage. WATERCOM's core traffic entails commercial account subscribers and related regular users of the WATERCOM system. WATERCOM therefore has no requirement for engaging in the marketing activities which the Commission seeks to address in this rulemaking.

The Commission third notes that BPP would allow some of AT&T's competitors to compete more effectively for customers. Again, the critical service path is that rendered by WATERCOM; the issue of IXC selection is an incidental component of AMTS service. Indeed, considering that many of WATERCOM's shore stations are located in remote areas, BPP would interject delay in call processing; would require separation of billing into radio and landline portions, with call accounting being reflected on different portions of the customer's telephone bills, if not on distinct bills themselves; and likely would result in "call splashing," by virtue of the necessity of forwarding calls to distant OSP locations for further routing. There is no way for that OSP to identify that the call is originating at a maritime location for its own rating and billing purposes.<sup>6/</sup>

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<sup>6/</sup> See, Comments of AT&T (Oct. 12, 1993), GTE Petition for Declaratory Ruling, File No. MSD 92-14, responsive to the Declaratory Ruling of the Common Carrier Bureau and  
(continued...)

Against the benefits described, the Commission notes that "BPP is an expensive technology."<sup>7/</sup> The Commission acknowledges that implementation of BPP would require network modification, and that some needed software has not yet been developed. The Commission estimates that implementation of BPP would exceed \$1.1 billion in non-recurring costs for local exchange carriers alone. OSP costs are estimated in the vicinity of \$120 million.<sup>8/</sup> There is no estimate of costs for CMRS institution of BPP.

At an annual cost of \$420 million per year for amortized non-recurring costs plus operating costs, it is evident that recovery of BPP costs will require a substantial call volume and operating efficiencies. These costs simply cannot be recovered from AMTS users. The Commission references savings on OSP payment of

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<sup>6/</sup> (...continued)

soliciting comments on the tentative conclusion that Petroleum Communications, Inc., is an aggregator entitled to compensation pursuant to TOCSIA. AT&T indicated that there is no practical mechanism for tracking calls placed from CMRS telephones. It further indicated that neither it nor any other OSP should be required to compensate the CMRS provider unless it specifically agrees to have its access code(s) unblocked. In sum and substance, AT&T evidences that equal access, and therefore BPP, from CMRS-originated calling is not economically or technically feasible.

<sup>7/</sup> Further Notice at ¶ 2.

<sup>8/</sup> Further Notice at ¶¶ 20-28.

commissions;<sup>9/</sup> however, as hereinbefore noted, WATERCOM does not compete for pay phone placement through Commission payments. Moreover, the universe of public pay phone users of the WATERCOM service is extremely small, amounting to less than 1% of WATERCOM's traffic. The Commission previously has recognized that the economics of radio-based common carrier services are substantially different from those of the landline telephone network, Offshore Tel. Co. v. South Central Bell Tel. Co., 6 FCC Rcd 2286 (1991); Offshore Tel. Co., 3 FCC Rcd 4513 (1988). Indeed, in the recently issued Notice of Proposed Rulemaking and Notice of Inquiry in CC Docket No. 94-54, Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, the Commission recites its tentative conclusion "that the full panoply of equal access requirements that apply to landline LECs should not apply to CMRS providers," and the Commission seeks comments on the tailoring of equal access requirements "to meet the individual circumstances of particular commercial mobile radio services."<sup>10/</sup> Perhaps, through omission, the Commission neglected to limit the instant Further Notice to the landline telephone network.

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<sup>9/</sup> Further Notice at ¶ 58.

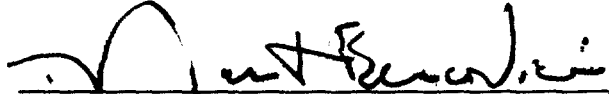
<sup>10/</sup> Notice at ¶ 3.

In summary, whatever the merits of billed party preference may be in the landline telephone environment, the need for and benefit of BPP simply does not exist in Automated Maritime Telecommunications Service. As with TOCSIA, the Commission proposal, if intended to embrace CMRS, would impose solutions on problems which do not exist, and further not only would complicate the use of the mobile service to the detriment of the calling public, but also undoubtedly would be so cost-prohibitive as to require termination of said service. While the goal of facilitating consumer choice is laudable, the measures adopted must be carefully analyzed to apply to the particular circumstances of the various categories of carriers, and not simply imposed on all services falling within a generic classification such as "pay phone" without consideration of the benefits and burdens in regard to each particular class of service.

**WHEREFORE, THE PREMISES CONSIDERED,** Waterway Communications System, Inc. respectfully urges the Federal Communications Commission to clarify that billed party preference is not applicable to Automated Maritime Telecommunications Service in particular or Commercial Mobile Radio Services in general, or otherwise suitably to limit BPP to an appropriate level of carrier operations that

can sustain the costs and deliver the intended benefits to the calling public.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Martin W. Bercovici', is written over a horizontal line.

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Due: August 1, 1994